

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:21-CV-488-BO**

PHILIP BULLS, DEAN BRINK, CARMIN
NOWLIN, NICHOLAS PADAQ, and
RAPHAEL RILEY *on behalf of themselves
and others similarly situated,*

Plaintiffs,

vs.

USAA FEDERAL SAVINGS BANK, and
USAA SAVINGS BANK,

Defendants.

**JOINT MOTION TO EXTEND
DEADLINES IN SCHEDULING
ORDER**

Pursuant to Rule 6(b) and 16(b)(4) of the Federal Rules of Civil Procedure and Local Rule 6.1, Plaintiffs Philip Bulls, Dean Brink, Carmin Nowlin, Nicholas Padao, and Raphael Riley (“Plaintiffs”), and Defendants USAA Federal Savings Bank and USAA Savings Bank (collectively, “the parties”) hereby jointly move the Court to (1) amend the Scheduling Order (Doc. 40.) in this matter by extending the current deadlines six (6) months, due to the complexity of discovery in this matter and unresolved discovery disputes, (2) limit the application of discovery deadlines to class certification and liability; and (3) adopt a process and timeline for the parties to develop a class damages discovery plan for submission to the court. In support of this request, the parties state the following:

1. This action was commenced by Plaintiffs on November 24, 2021.
2. Defendants answered the Complaint on May 6, 2022.
3. Plaintiffs amended their Complaint on May 27, 2022.

4. The parties filed a Joint Rule 26(f) Report (Doc. 28.) on June 23, 2022, pursuant to the Court's May 12, 2022 Order for Discovery Plan (Doc. 25.), estimating eighteen (18) months to complete discovery in this matter.

5. Defendants answered the Amended Complaint on June 24, 2022.

6. The Court issued a Scheduling Order (Doc. 40.) on August 2, 2022, setting a discovery deadline of August 9, 2022, including a deadline for disclosure of expert witnesses of May 9, 2023.

7. The parties have been engaged in written discovery, which has been labor intensive due to the extent of the claims and legal issues involved, and additional time is required to complete written discovery.

8. Yesterday, the Court entered its Order (Doc. 64) regarding Plaintiffs' Motion to Compel (Doc. 47).

9. For the parties to engage in expert discovery, the parties must first complete additional written discovery.

10. There have been no prior modifications of the Scheduling Order.

11. To enable the parties to engage in meaningful written and expert discovery, the parties jointly request that the current deadlines in the Scheduling Order (Doc. 40.) be extended six (6) months.

12. To allow the parties to focus their immediate resources, the parties also jointly request that the extended deadlines be applicable to class certification and liability and that the parties jointly confer on a class damages discovery plan and submit a joint status report on such plan. This phasing of damages discovery tracks this Court's scheduling order in *Childress v. JP Morgan Chase*, No. 5:16-CV-298-BO (DE 67, Jul. 21, 2017).

13. The parties disagree and reserve their arguments about whether individual damages issues will be resolved by an accounting or through discovery, and when such discovery should occur.

14. This Motion is made jointly by the parties in good faith and not for the purposes of delay.

WHEREFORE, for good cause shown, the parties respectfully request that the Court amend the Scheduling Order (Doc. 40) by extending each of the current deadlines by six (6) months, limiting discovery deadlines to class certification and liability, and requiring the parties to jointly confer on a class damages discovery plan and submit a joint status report on such plan not later than fourteen days after the new dispositive motion deadline.

The existing and requested new deadlines are as follows:

Item	Existing Deadline	Proposed New Deadline
Deadline for Expert Reports	5/9/23	11/9/23 (on class certification and liability)
Deadline for Expert Rebuttal	6/23/23	12/23/23 (on class certification and liability)
Close of Discovery/Mediation	8/9/23	2/9/24 (on class certification and liability)
Dispositive Motions	9/2/23	3/8/24 (on class certification and liability)
Parties confer and submit joint status report on class damages discovery plan	n/a	3/24/24

Dated: February 17, 2023.

/s/ Matthew D. Ballew
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Special Appearance Counsel
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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of February, 2023, I electronically filed the foregoing **JOINT MOTION TO EXTEND DEADLINES IN SCHEDULING ORDER** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Andrew M. Albritton
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